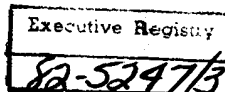


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THE WHITE HOUSE
WASHINGTON



June 4, 1982

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MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE SECRETARY OF COMMERCE
THE SECRETARY OF ENERGY
THE DIRECTOR OF CENTRAL INTELLIGENCE
CHAIRMAN, JOINT CHIEFS OF STAFF
CHAIRMAN, NUCLEAR REGULATORY COMMISSION
DIRECTOR, ARMS CONTROL AND DISARMAMENT
AGENCY

SUBJECT: United States Policy on Foreign Reprocessing
and Use of Plutonium Subject to U.S. Control

Attached is a corrected first page for NSDD 39 on the above subject which should be substituted for the copy circulated by NSC memorandum of June 4, 1982. It incorporates a sentence from the interagency recommendations that was inadvertently omitted.

FOR THE PRESIDENT:

William P. Clark

Attachment: NSDD 39

cc: Counsellor to the President
The Director, Office of Management
and Budget
Chief of Staff to the President
Deputy Chief of Staff to the President
Director, Office of Science and
Technology Policy

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90353THE WHITE HOUSE
WASHINGTON

June 4, 1982

SECRETNATIONAL SECURITY DECISION
DIRECTIVE NUMBER 39UNITED STATES POLICY ON FOREIGN REPROCESSING
AND USE OF PLUTONIUM SUBJECT TO U.S. CONTROL

I have reviewed the interagency report on United States policy on foreign reprocessing and use of plutonium subject to U.S. control, as forwarded by the Department of State's memorandum of May 26, 1982, and have approved the policies recommended in that report and as set forth below.

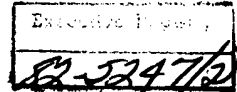
- o With respect to Japan, the United States will offer (1) an advance consent arrangement for certain reprocessing, retransfers for reprocessing and use of U.S.-controlled material in programs for which available information allows the United States to make the necessary statutory determinations, and (2) a statement of intention to approve use of such material in future programs in Japan and retransfers for reprocessing to EURATOM or other mutually agreed countries in future facilities when sufficient information is available to allow the United States to make the necessary statutory determinations. It is understood that an advance consent arrangement could include retransfer of spent fuel from Japan to facilities in France and the United Kingdom for reprocessing; reprocessing at the Tokai-Mura plant for its operative life; use of plutonium in Japan's breeder, advanced reactor and thermal recycle programs and return of separated plutonium from France and the United Kingdom for these programs.

These approvals will be subject to the conditions in the agreement continuing to be met, including necessary non-proliferation and statutory conditions such as those on safeguards and physical security, and to a continued strong commitment by Japan to non-proliferation efforts.

The United States will offer the above in the context of seeking a new or amended agreement for peaceful nuclear cooperation in traditional form or, if that form is not acceptable to Japan, in another appropriate form containing equivalent provisions. The United States will be flexible on the form an agreement might take, if it contains equivalent provisions in substance, and will seek to complete negotiations at an early date, if possible within one year. If Japan proves unwilling to accept equivalent provisions, the Senior Interagency Group will reassess the matter.

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DDI 4750-82
10 June 1982

MEMORANDUM FOR: Deputy Director of Central Intelligence

VIA: Deputy Director for Intelligence *Butler* *PS*

FROM:

Acting Special Assistant for Nuclear
Proliferation IntelligenceSUBJECT: Comment on NSDD-39, US Policy on Foreign
Reprocessing and Use of Plutonium

25X1

1. This memorandum is for your information only.

2. The President's Decision. National Security Decision Directive 39, approved by the President on 4 June 1982, is the culmination of an interdepartmental review that began last summer.* In the most direct terms it amounts to US assent (and possible assistance) to reprocessing and the use of plutonium a) in Japan and the EURATOM countries, and b) in certain other countries under conditions that would require US approval over the use of plutonium from US-controlled material. The policy includes an expectation that these countries will a) improve their cooperation with the US in nonproliferation efforts particularly in "sensitive regions of the world," and b) implement more effective controls (safeguards) on plutonium.

3. The policy decision was made with an awareness of the following considerations:

--State's view that the capability of the US to prevent theft and diversion of plutonium through technical manipulation of the fuel

*The President's National Security Decision Directive on US Non-proliferation and Peaceful Nuclear Cooperation Policy (16 July 1981) mandated a "review of possible approaches for developing a predictable policy for the exercise of US approval rights for reprocessing spent fuel, retransferring spent fuel for reprocessing, and plutonium use under agreements for peaceful nuclear cooperation, including new and amended agreements."

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DDI 4750-82

SUBJECT: Comments on NSDD-39, US Policy on Foreign
Reprocessing and Use of Plutonium

cycle is limited; and that the US also must focus on the political and military aspects of the problem.

- Congressional critics will strongly oppose any form of approval for plutonium use in Japan or elsewhere, and will view the policy as a bad precedent and serious weakening of US nonproliferation efforts.
- The concerns of the Nuclear Regulatory Commission that more attention be paid to the "safeguardability" of plutonium and the related issue of the "timely warning" of any diversion from non-military to military uses.

4. Prospective Inquiries Concerning the Role of Intelligence.

The challenge to intelligence is the timely and reliable detection of any diversion of plutonium. In two recent memoranda (copies attached) we reported to the DCI that this task is extraordinarily difficult. NSDD-39 is likely to spawn inquiries from the Congress concerning our overall capabilities for this and related proliferation problems (in addition to those already received on the subject of the detection of possible safeguards violations).

Attachments:
As Stated

cc: Chrmn, NIC

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DDI 4750-82

SUBJECT: Comment on NSDD-39, US Policy on Foreign
Reprocessing and Use of Plutonium

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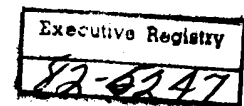
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MEMORANDUM

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THE WHITE HOUSE
WASHINGTON



June 4, 1982

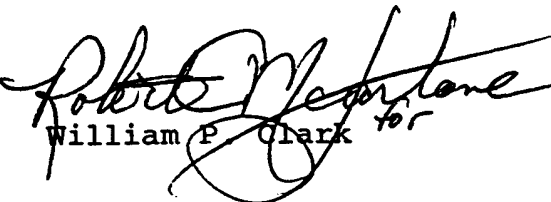
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MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
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CHAIRMAN, JOINT CHIEFS OF STAFF
CHAIRMAN, NUCLEAR REGULATORY COMMISSION
DIRECTOR, ARMS CONTROL AND DISARMAMENT
AGENCY

SUBJECT: United States Policy on Foreign Reprocessing
and Use of Plutonium Subject to U.S. Control

The President has approved the attached National Security
Decision Directive on United States policy on foreign
reprocessing and use of plutonium subject to U.S. control.

FOR THE PRESIDENT:


William P. Clark for

Attachment : NSDD 39

cc: Counsellor to the President
The Director, Office of Management
and Budget
Chief of Staff to the President
Deputy Chief of Staff to the President
Director, Office of Science and
Technology Policy

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June 4, 1982

Executive Registry

82-5247/1

NATIONAL SECURITY DECISION.
DIRECTIVE NUMBER 39UNITED STATES POLICY ON FOREIGN REPROCESSING
AND USE OF PLUTONIUM SUBJECT TO U.S. CONTROL

I have reviewed the interagency report on United States policy on foreign reprocessing and use of plutonium subject to U.S. control, as forwarded by the Department of State's memorandum of May 26, 1982, and have approved the policies recommended in that report and as set forth below.

- o With respect to Japan, the United States will offer
 - (1) an advance consent arrangement for certain reprocessing, retransfers for reprocessing and use of U.S.-controlled material in programs for which available information allows the United States to make the necessary statutory determinations, and (2) a statement of intention to approve use of such material in future programs in Japan and retransfers for reprocessing to EURATOM or other mutually agreed countries in future facilities when sufficient information is available to allow the United States to make the necessary statutory determinations. It is understood that an advance consent arrangement could include retransfer of spent fuel from Japan to facilities in France and the United Kingdom for reprocessing; reprocessing at the Tokai-Mura plant for its operative life; use of plutonium in Japan's breeder, advanced reactor and thermal recycle programs and return of separated plutonium from France and the United Kingdom for these programs.

These approvals will be subject to the conditions in the agreement continuing to be met, including necessary non-proliferation and statutory conditions such as those on safeguards and physical security, and to a continued strong commitment by Japan to non-proliferation efforts.

The United States will offer the above in the context of seeking a new or amended agreement for peaceful nuclear cooperation in traditional form or, if that form is not acceptable to Japan, in another appropriate form containing equivalent provisions. The United States will be flexible on the form an agreement might take, if it contains equivalent provisions in substance, and will seek to complete negotiations at an early date, if possible within one year.

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- o With respect to EURATOM, the United States will seek to obtain a right of consent over reprocessing of U.S.-controlled material and provide approvals equivalent to those offered to Japan. Those approvals will be subject to similar conditions and in similar form as those offered to Japan.
- o With respect to U.S. exports, the United States will permit the export of U.S. sensitive reprocessing technology and equipment for facilities in Japan and EURATOM if the necessary statutory requirements and Nuclear Supplier Group Guidelines are satisfied and assuming a continued commitment by the recipient country to non-proliferation efforts and to strengthening International Atomic Energy Agency safeguards and physical security measures to be applied at a facility using or deemed to be derived from U.S.-supplied technology or equipment.
- o With respect to other countries, if so requested the United States will (1) grant advance approval for retransfers to the United Kingdom and France for reprocessing of U.S.-controlled material in facilities for which available information allows the necessary statutory determinations to be made, and (2) state its intention to provide approval for such retransfers to future facilities in EURATOM or other mutually agreed countries when sufficient information is available to allow the necessary statutory determinations to be made. The United States will retain approval rights over the disposition of the plutonium.

The United States will make clear to its cooperating partners that these approaches are premised on the expectation of improved non-proliferation cooperation, particularly on pressing proliferation problems in sensitive regions of the world, and of their implementing more effective controls on civil plutonium.

Consultations on the substance of these proposals should be commenced promptly with allies and, to ensure sufficient support, with key members of Congress. The Senior Interagency Group will monitor the negotiations implementing the above policies and Congressional reactions, and will review any significant issues that may arise. Any agency differences will be forwarded for my consideration.

Ronald Reagan

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